IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 12560 of 2004

Between:

Communication Services Research & Development Centre

(Society Registered under the Societies Registration Act),
Hermitage Office Complex, 5th Floor, Hillfort Road,

Opp: Assembly, rep.by its Secretary General,
M.Sridhar Dayal, S/o M.Venkat Rao, aged about 29 years

..... PETITIONER

AND

1 The Hyderabad Urban Development Authority,

1-8-323, Paigah Palace, Rasoolpura, Secunderabad
rep.by its Vice-Chairman
2 Assistant Estate Officer, Hermitage Complex, HUDA,

Hillfort Road, Opp:Assembly, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or orders, Direction or Directions declaring the action of the respondents in issuing the proceedings dated 22-5-2004 for recovering the alleged arrears from the Petitioner and also to evict the petitioner from the leased premises as illegal, arbitrary and unconstitutional and to

issue a consequential direction to the respondents to act in accordance with Law.

Counsel for the Petitioner:MR.V.SRINIVAS

Counsel for the Respondents 1 and 2: MR.B.VISWANATHA REDDY, Standing Counsel for HUDA

The Court at the admission stage made the following ORDER:

Petitioner-Organisation obtained shop Nos.501 to 505 situated at Hermitage Office Complex, Hillfort Road, Hyderabad, on lease from the first respondent-Hyderabad Urban Development Authority. Earlier, petitioner filed W.P.No.2420 of 2004 for removal of locks of the mulgies and the same was disposed of directing the respondents to remove the locks to one of the mulgies identified by the petitioner on depositing a sum of 50% of the amount due to the first respondent. It is stated that the petitioner has deposited 50% of the demanded amount as ordered by this Court and retained Shop No.504 by surrendering remaining shops to the first respondent. While so, petitioner was served with the notice on

01-05-2004 informing that an amount of Rs.3,05,893/- was due towards rental arrears as on April, 2004 and after adjustment of the amount paid by the petitioner as per the orders passed by this Court in WP.No.2420 of 2004, further an amount of Rs.39,603/- was due towards damage charges done to lift etc., and calling upon it to pay the same on or before 15-05-2004, failing to do so, the same will be recovered under the provisions of the Revenue Recovery Act. Before issuing the above said notice, petitioner through its letter dated 12-04-2004 requested the respondents to waive the rent for block No.504 but the same was not considered. Since the petitioner has not disputed the amounts so calculated and arrived at through the notice dated 01-05-2004, the respondents cancelled the lease agreement of the petitioner through the impugned order dated 22-05-2004 stating that it should vacate

and handover the possession by the end of
31-08-2004 after clearing all the dues apart from calling upon the petitioner to pay the amounts due as determined in its letter dated 12-04-2004 and as finalized as per the letter dated 01-05-2004, failing to do so, necessary proceedings will be initiated for recovery of the amount under the Revenue Recovery Act. As the petitioner has not responded, demand notice dated 09-07-2004 and distraint order dated 16-07-2004 under Section 8 of the A.P. Revenue Recovery Act were issued calling upon it to pay a sum of Rs.4,09,772/-. Questioning the order dated 22-05-2004, the present writ petition is filed.

Learned counsel for the petitioner contended that if any amounts are due to the respondents, they should be asserted through judicial process and the respondents cannot recover the same under the Revenue Recovery Act. But in fact, the contention made by the learned counsel cannot be accepted for the reason that the amount so arrived was already intimated to the petitioner on 01-05-2004, through which, he was called upon it to pay the said amount on or before 15-05-2004 failing to do so, the amount would be recovered under the Revenue Recovery Act. The petitioner has not chosen to dispute the correctness of the amounts, so arrived. Pursuant to the impugned cancellation order and notice under the Revenue Recovery Act, it has filed a representation dated
16-7-2004 before the respondents seeking to withdraw the impugned cancellation order. Subsequently, it also filed WP.No.4049 of 2004 for release of articles, which were seized including the laptops, and the same was disposed of on 18-03-2004.

Having regard to the aforesaid facts and circumstances of the case, this Court is not inclined to set aside the impugned cancellation order. Since the petitioner was put on notice about the amounts due, which was not disputed, and when the respondents authority has no other way except to proceed to recover the said amount under the Revenue Recovery Act after confirming the amounts due, which were mentioned in the notice dated 01-05-2004, I do not see any ground to entertain the writ petition. I see no force in the submission made by the learned counsel that till the petitioner approaches the Civil Court for redressal to stay the recovery. However, the petitioner is at liberty to approach the Civil Court or avail such other remedies for ascertaining the correctness of the amounts after giving set off of to the amounts, if any paid by it.

With the above observations, the writ petition is dismissed. No costs.

20th JULY, 2004.

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To

1 The Vice-Chairman, Hyderabad Urban Development Authority,

1-8-323, Paigah Palace, Rasoolpura, Secunderabad.
2 The Assistant Estate Officer, Hermitage Complex, HUDA,

Hillfort Road, Opp:Assembly, Hyderabad

3 Two CD copies.